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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA,	)	No. CR 16-00440 WHA
15	)	
16 Plaintiff,	)	STIPULATION AND [PROPOSED] ORDER
17 v.	)	EXCLUDING TIME FROM MARCH 12, 2019,
18 YEVGENIY ALEXANDROVICH NIKULIN,	)	THROUGH APRIL 30, 2019
19 Defendant.	)	
20	)	

21 Defendant Yevgeniy Nikulin, represented by Arkady Bukh and Valery Nechay, and the United  
22 States, represented by Assistant United States Attorneys Michelle J. Kane and Matthew A. Parrella,  
23 hereby stipulate to the following:

24 1. On October 10, 2018, with the agreement of the parties, the Court ordered defendant  
25 committed to the custody of the Bureau of Prisons for purposes of a mental competency examination  
26 pursuant to 18 U.S.C. § 4241(b) (ECF No. 70);

27 2. The Bureau of Prisons Forensic Psychologist provided a report to the Court, which the  
28 Court provided to the parties on February 11, 2019;

STIPULATION & [PROPOSED] ORDER  
CR 16-00440 WHA

1           3.       The parties appeared before this Court on February 12, 2019, for a hearing regarding  
2 defendant's mental competency, however, defendant was not present because he had not yet been  
3 transported back to this District. The Court set a status conference regarding mental competency  
4 proceedings on March 5, 2019, at 2:00 p.m., and, at the parties' request, set an evidentiary hearing on  
5 competency on March 19, 2019, at 8:00 a.m.;

6           4.       Because defendant's transport back to this District was delayed, for reasons including  
7 severe weather, the parties jointly filed a request that the Court continue the March 5, 2019, status  
8 conference one week to March 12, 2019, at 2:00 p.m., which the Court granted. ECF. No. 76;

9           5.       At the status conference on March 12, 2019, the defendant informed the Court that he  
10 would be challenging the competency report and would be submitting his own expert report. The  
11 defendant stated that he would need several weeks for the report to be ready;

12           6.       The Court, with the consent of the parties, set the matter for a competency hearing on  
13 April 30, 2019, at 11:00 a.m. The Court ordered defendant to provide his rebuttal report to the Court and  
14 the United States by April 9, 2019;

15           7.       The Court, at the request of the parties, previously designated the case as complex based  
16 on the nature of the prosecution, pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii) ("it is unreasonable to expect  
17 adequate preparation for pretrial proceedings or for the trial itself within the time limits established by  
18 [the Speedy Trial Act]");

19           8.       The parties continue to agree that the matter is complex based on the nature of the  
20 prosecution, and that it is therefore unreasonable to expect adequate preparation for pretrial proceedings  
21 or for the trial itself within the time limits established by the Speedy Trial Act, pursuant to 18 U.S.C. §  
22 3161(h)(7)(B)(ii);

23           9.       The parties also agree that the time until April 30, 2019, is excludable delay resulting  
24 from proceedings to determine the mental competency of defendant, pursuant to 18 U.S.C. §  
25 3161(h)(1)(A);

26           10.      The parties further agree that the time until April 30, 2019, is necessary for effective  
27 preparation of defense counsel, taking into account the exercise of due diligence, and that the ends of  
28 justice served by excluding the period from March 12, 2019, through April 30, 2019, from Speedy Trial

Act calculations outweigh the interests of the public and defendant in a speedy trial, in accordance with 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

IT IS SO STIPULATED.

DATED: March 29, 2019

Respectfully submitted,

DAVID L. ANDERSON  
United States Attorney

/s/  
MICHELLE J. KANE  
MATTHEW A. PARRELLA  
Assistant United States Attorneys

/s/  
ARKADY BUKH  
Counsel for Yevgeniy Alexandrovich  
Nikulin

/s/  
VALERY NECHAY  
Counsel for Yevgeniy Alexandrovich  
Nikulin

### ORDER

Based upon the stipulation of counsel, and for good cause shown, the Court finds that the case is complex based on the nature of the prosecution and that it is therefore unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by the Speedy Trial Act. 18 U.S.C. § 3161(h)(7)(B)(ii).

Also based upon the stipulation of counsel, and for good cause shown, the Court finds that the time from March 12, 2019, through April 30, 2019, is excludable delay resulting from proceedings to determine the mental competency of defendant, pursuant to 18 U.S.C. § 3161(h)(1)(A).

Also based upon the stipulation of counsel, and for good cause shown, the Court finds that failing to exclude the time between March 12, 2019, and April 30, 2019, would unreasonably deny the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(B)(iv).

1 The Court further finds that the ends of justice served by excluding the time between March 12,  
2 2019, and April 30, 2019, from computation under the Speedy Trial Act outweigh the best interests of  
3 the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

4 Therefore, IT IS HEREBY ORDERED that the evidentiary hearing on competency shall be  
5 continued from March 19, 2019, to April 30, 2019, at 8:00 a.m., and that the time from March 12, 2019,  
6 to April 30, 2019, shall be excluded from computation under the Speedy Trial Act.

7 IT IS SO ORDERED.

8  
9 Dated:

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10 HON. WILLIAM ALSUP  
United States District Judge  
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